

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JOSEPH NASCIMENTO,

Plaintiff,

v.

WELLS FARGO BANK, NA, et al.,

Defendants.

2:11-CV-1049 JCM (GWF)

ORDER

Presently before the court is plaintiff's motion to enforce prohibition on state court proceeding with case. (Docs. #14-15).

Defendant Wells Fargo Bank, N.A. removed this case to federal court on June 24, 2011. (Doc. #1). On July 20, 2011, plaintiff moved to remand the case to state court. (Docs. #10-11). Wells Fargo filed a response to the motion to remand on August 4, 2011. (Doc. #13).

On August 5, 2011, while plaintiff's motion to remand was pending in federal court, the Supreme Court of Nevada ordered plaintiff to respond to its May 13, 2011 order to show cause. (Doc. #14, Ex. #5). Pursuant to 28 U.S.C. § 1446(d), plaintiff now seeks declaratory and injunctive relief prohibiting further proceedings in state court arising from this case. (Doc. #14).

Plaintiff has not demonstrated that he has communicated with the Supreme Court of Nevada in any manner since the case was removed to federal court on June 24, 2011. (*See* Doc. #14, Exs. #1-5). Thus, the court has no basis to believe that the Supreme Court of Nevada is aware that it is

1 acting without jurisdiction pursuant to 28 U.S.C. § 1446(d). Absent an affirmative showing that the
2 Nevada Supreme Court knowingly issued its August 5th order in contravention of § 1446(d), the
3 court declines to enjoin the state court.

4 Accordingly,

5 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that plaintiff Joseph
6 Nascimento's motion to enforce prohibition on state court proceeding with case, (docs. #14-15), be,
7 and the same hereby is, DENIED.

8 DATED August 16, 2011.

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11 UNITED STATES DISTRICT JUDGE
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